

EXHIBIT A

SETTLEMENT AGREEMENT, MUTUAL RELEASE, AND COVENANTS

This SETTLEMENT AGREEMENT, MUTUAL RELEASE, AND COVENANTS (this “**Agreement**”) is made and entered into by, on the one hand, the USACM LIQUIDATING TRUST (the “**USACM Trust**” or the “**Plaintiff**”), and, on the other hand, ANTHONY MONACO, Individually (“**Anthony Monaco**”), SUSAN K. MONACO, Individually (“**Susan Monaco**”), and MONACO DIVERSIFIED CORPORATION (“**MDC**” collectively with Anthony Monaco and Susan Monaco, the “**Defendants**”). Plaintiff and Defendants collectively shall be referred to as the “**Parties**.”

I. Recitals

A. On April 13, 2006 (the “**USACM Petition Date**”), USA Commercial Mortgage Company (“**USACM**”) filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Nevada (the “**Bankruptcy Court**”), administered under Case No. BK-S-06-10725-LBR (the “**USA Capital Bankruptcy Case**”).

B. The Bankruptcy Court confirmed the Third Amended Joint Chapter 11 Plan of Reorganization (the “**Joint Plan**”) pursuant to order entered on January 8, 2007 (the “**Confirmation Order**”). The Joint Plan became effective on March 12, 2007.

C. Upon confirmation of the Joint Plan, the USACM Trust was created pursuant to the Joint Plan and the Confirmation Order, and Geoffrey L. Berman serves as the Trustee of the USACM Trust. The Joint Plan expressly retained USACM’s causes of action for enforcement by the USACM Trust pursuant to 11 U.S.C. § 1123(b)(3)(B). Accordingly, the USACM Trust now holds any and all potential claims and causes of action, whether arising pre-petition or post-petition, that USACM may have or may at any time have had against the Defendants.

D. On April 11, 2008, USACM commenced adversary proceeding number 08-01125, entitled *USACM Liquidating Trust v. Eagle Ranch, et al.*, in the Bankruptcy Court, asserting claims against Anthony Monaco, Susan K. Monaco, Monaco Diversified Corporation (the “**Monaco Litigation**”).

E. Based on his investigation and analysis to date, Geoffrey L. Berman, solely in his capacity as Trustee of the USACM Trust (the “**USACM Trustee**”) has weighed the risks and potential benefits for his constituents in continuing to litigate the claims asserted in this case, and has concluded that it is in the best interest of his constituents to compromise the claims on the terms set forth herein.

F. The Parties have therefore agreed to settle all disputes and controversies between them on the terms set forth in this Agreement, without admitting any liability or wrongdoing and without resort to litigation between them.

II. Representations And Warranties

A. The Plaintiff represents that it holds and has the exclusive power and authority to assert and to compromise any and all known claims, demands, damages, liabilities, actions, causes of action, or suits at law, or in equity of whatever kind, whether state or federal, arising pre-petition or post-petition (the “**Claims**”), that the Plaintiff had or has against: Anthony Monaco in his individual capacity and as an officer, director, or owner of MDC; Susan K. Monaco in her individual capacity and as an officer, director, or owner of MDC; and MDC and all of its present and former principals, employees, staff, predecessors, and successors, and its respective attorneys, accountants, representatives, trustees, advisors, consultants, adjustors, agents and insurers in their capacities as such (collectively, the “**Monaco Released Parties**”). The Claims described in this paragraph shall hereinafter be referred to as the “**USACM Trust Released Claims**.”

B. The Plaintiff further represents that it has obtained all necessary consents or approvals to enter into this Agreement, aside from Bankruptcy Court approval pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.

C. The Defendants represent that they hold and have the exclusive power and authority to assert and to compromise any and all claims, demands, damages, liabilities, actions, causes of action, or suits at law, or in equity of whatever kind, if any, whether state or federal, arising pre-petition or post-petition, known (“**Claims**”), that the Defendants had or have against the Plaintiff and all of their present and former principals, employees, staff, predecessors, and successors, and their respective attorneys, accountants, representatives, trustees, advisors, consultants, adjustors, agents and insurers in their capacities as such (collectively, the “**USACM Trust Released Parties**”). The Claims described in this paragraph shall hereinafter be referred to as the “**Monaco Released Claims**.”

III. Terms and Conditions

NOW, THEREFORE, in consideration for the representations, warranties, covenants, promises, and releases set forth herein, and in full settlement of USACM Released Claims and Monaco Released Claims, the Parties hereby agree on behalf of themselves and any and all of their predecessors, successors, assigns, and insurers, and any other parties or persons claiming by, through, or under any of the Parties hereto, as follows:

1. Anthony Monaco, Susan Monaco and MDC, jointly and severally, unconditionally agree to a judgment against all the Defendants in the amount of Five Million Five Hundred Thousand Dollars (\$5,500,000) in accordance with the terms and conditions contained herein.
2. The Defendants shall deliver to the USACM Trust a fully executed Agreed Judgment in the amount of Five Million Five Hundred Thousand Dollars (\$5,500,000) substantially in the form as that attached hereto as Exhibit “A” (the “**Agreed Judgment**”). Defendants expressly authorize the USACM Trust to file the Agreed Judgment with the Bankruptcy Court or any other court of competent jurisdiction to consider such matters, and upon the

Bankruptcy Court's approval of the terms of this Settlement Agreement, Defendants agree to take any and all necessary steps to enter the judgment in the United States District Court, District of Nevada in the matter Case No. 2:09-CV-01947-RCJ-PAL currently before Judge Jones (the "District Court").

3. Upon execution of this Settlement Agreement and the Agreed Judgment (but before the entry of the Agreed Judgment), the Plaintiff shall file the motion to approve the settlement substantially in the form attached hereto as Exhibit "B" (the "**Rule 9019 Motion**").
4. The Parties will enter the judgment upon the Bankruptcy Court's granting, orally and/or in a written order, whichever comes first, the Rule 9019 Motion approving this Agreement.
5. Subject to and upon entry of the Agreed Judgment as set forth in this Agreement, and in no event before the entry of the Agreed Judgment, the Plaintiff fully releases and discharges the Monaco Released Parties from any and all liability with respect to the USACM Trust Released Claims.
6. Upon entry of the Agreed Judgment as set forth in this Agreement, the Defendants, on behalf of themselves and the Monaco Released Parties, fully release and discharge the USACM Trust Released Parties from any and all liability with respect to the Monaco Released Claims.
7. The Parties agree to take whatever action necessary to suspend trial proceedings pending the approval of this Settlement pursuant to Rule 9019.
8. The Parties each agree to take such actions and execute such documents (and, where applicable, so instruct their counsel) as may be reasonably necessary to implement the terms of this Agreement, including, without limitation, obtaining approval of this Agreement by the Bankruptcy Court under Federal Rule of Bankruptcy Procedure 9019.
9. Any notice in connection with this Agreement to each of the Parties shall be given, by facsimile and by certified mail, to the following individuals:

For the USACM Trust:

Geoffrey L. Berman
DEVELOPMENT SPECIALISTS, INC.
333 South Grand Avenue, Suite 4070
Los Angeles, California 90071
Telephone: (213) 617-2717
Facsimile: (213) 617-2718

Andrea Kim
DIAMOND McCARTHY LLP
909 Fannin St., Suite 1500
Houston, Texas 77010
Telephone: (713) 333-5100
Facsimile: (713) 333-5199

For the Defendants:

Harold P. Gewerter
HAROLD P. GEWERTER LTD.
2705 Airport Drive
North Las Vegas, Nevada 89032
Telephone: (702) 382-1714
Facsimile: (702) 382-1759

10. This Agreement shall be treated as jointly drafted, and will not be construed against any Party as drafter. This Agreement provides no rights to any third party except to the extent expressly set forth herein.
11. The Parties acknowledge that they have had the opportunity to be represented by counsel during negotiations of this Agreement and to consult with their respective attorneys regarding its meaning and effect. The Parties agree that (a) the terms and provisions of this Agreement are not to be construed more strictly against either of the Parties; and (b) it is their mutual intention that the terms and provisions of this Agreement be construed as having the plain meaning of the terms used herein.
12. This Agreement constitutes the entire agreement among the Parties on the subjects addressed herein. No supplement, modification, amendment, waiver, or termination of this Agreement shall be binding unless executed in writing by the Parties to be bound thereby. No contrary or supplementary oral agreement shall be admissible in a court to contradict, alter, supplement, or otherwise change the meaning of this Agreement.
13. The terms and provisions of this Agreement are subject to approval by the Bankruptcy Court. If the Bankruptcy Court does not approve this Agreement, this Agreement shall be a nullity, the Parties shall be returned to their respective litigation positions, and the rights of the Parties shall otherwise be unaffected by this Agreement.
14. If any term or provision of this Agreement shall be determined to be unenforceable, invalid, or illegal in any respect, the unenforceability, invalidity, or illegality shall not affect any other term or provision of this Agreement, but this Agreement shall be construed as if such unenforceable, invalid, or illegal term or provision had never been contained herein. Notwithstanding the foregoing, the release provisions are material provisions of this Agreement and not subject to the terms of this paragraph.

15. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be deemed an original and all of which together shall constitute one and the same Agreement. The signatories executing this Agreement represent and warrant that they are authorized to execute this Agreement on behalf of the Parties and entities for whom they sign. Signatures obtained by facsimile or email in PDF format or other electronic transmission shall be deemed to be original signatures.
16. Each Party agrees to bear its own fees and costs with respect to any duties required of the Party under this Agreement; in any matter involving, referring, or relating to the interpretation and enforcement of this Agreement; and in connection with any disputes that may arise between the Parties relating to this Agreement.
17. This Agreement is to be governed by the laws of the State of California. The District Court shall retain jurisdiction over the interpretation and enforcement of this Agreement, as well as any disputes that may arise between the Parties relating to this Agreement; and the Parties consent to the exclusive jurisdiction of the District Court for these purposes subject to the right of either of the Plaintiff and Defendants to appeal any such decision to the United States District Court for the District of Nevada.
18. Each Party warrants, represents and agrees that s/he (a) has not assigned, subrogated, pledged or transferred to any person, firm, partnership, corporation or other entity whatsoever any of the claims, counterclaims, actions, demands or causes of action to be released pursuant to the releases set forth in this Agreement; and (b) is fully authorized to enter into this Agreement without the consent of any third parties. Specifically, each person signing the Agreement represents and warrants that s/he has been authorized and empowered to sign this Agreement on behalf of the Party the person purports to represent and that this Agreement is lawful and is a binding obligation of the Party on whose behalf the person is signing.
19. This Agreement will inure to the benefit of and will be binding upon the Parties and their respective heirs, executors, successors, assigns, grantees, administrators, executors and trustees.

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DATED: May 13, 2010

USACM LIQUIDATING TRUST

By: Geoffrey L. Berman
Geoffrey L. Berman, solely in his capacity as
Trustee of the USACM Liquidating Trust

DATED: _____

ANTHONY MONACO

By: _____
Anthony Monaco

DATED: _____

SUSAN K. MONACO

By: _____
Susan K. Monaco

DATED: _____

MONACO DIVERSIFIED CORPORATION

By: _____

◆◆◆

VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by **Anthony Monaco**, on this _____
day of _____, 2010.

Notary Public
State of _____

My commission expires:

◆◆◆

VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by **Susan K. Monaco**, on this _____
day of _____, 2010.

Notary Public
State of _____

My commission expires:

◆◆◆

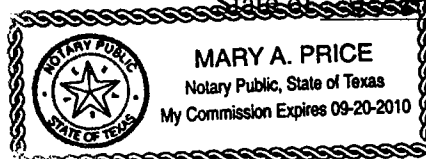
VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by **Geoffrey L. Berman**, on this 13th
day of May, 2010.

Mary A. Price

Notary Public
State of TEXAS

My commission expires:
9-20-10



◆◆◆


DATED: 5-12-2010

USACM LIQUIDATING TRUST

By: _____
Geoffrey L. Berman, solely in his capacity as
Trustee of the USACM Liquidating Trust

DATED: 5-12-2010

ANTHONY MONACO

By: 
Anthony Monaco

DATED: _____

SUSAN K. MONACO

By: _____
Susan K. Monaco

DATED: 5-12-2010

MONACO DIVERSIFIED CORPORATION

By: 

♦ ♦ ♦

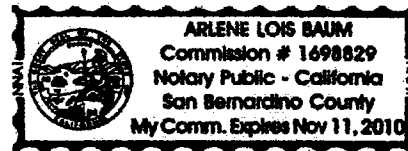
VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by Anthony Monaco, on this 12th
day of May, 2010.

Arlene Lois Baum
Notary Public
State of CALIFORNIA

My commission expires:

Nov 11, 2010



VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by Susan K. Monaco, on this _____
day of _____, 2010.

Notary Public
State of _____

My commission expires:

VERIFICATION FOR PLAINTIFF

2009-05-23 04:35

>> 7023821759

P 5/8

♦♦♦

DATED: _____

USACM LIQUIDATING TRUST

By: _____
Geoffrey L. Berman, solely in his capacity as
Trustee of the USACM Liquidating Trust

DATED: _____

ANTHONY MONACO

By: _____
Anthony Monaco

DATED: 5-12-10

SUSAN K. MONACO

By: *Susan K. Monaco*
Susan K. Monaco

DATED: 5-12-10

MONACO DIVERSIFIED CORPORATION

By: _____

2009-05-23 04:35

>> 7023821759

P 7/8

♦ ♦ ♦

VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by **Anthony Monaco**, on this _____
day of _____, 2010.

Notary Public
State of _____

My commission expires:

♦ ♦ ♦

VERIFICATION

SUBSCRIBED AND SWORN TO BEFORE ME by **Susan K. Monaco**, on this 12th
day of May, 2010.

Notary Public
State of California

My commission expires:
3-29-2012



VERIFICATION FOR PLAINTIFF

[Pages 8-13 Intentionally Left Blank]

EXHIBIT A
TO SETTLEMENT AGREEMENT

1
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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 USACM LIQUIDATING TRUST,

11 Plaintiff

12 v.

13 ANTHONY MONACO, SUSAN MONACO,
14 AND MONACO DIVERSIFIED
CORPORATION,

15 Defendants.

Bankruptcy No. BK-S-06-10725-lbr
Adversary No. 08-01125-lbr

CASE No. 2:09-cv-01947-RCJ-PAL

AGREED JUDGMENT

16 On this day, the Court has reviewed the Parties' Settlement Agreement regarding the
17 judgment set forth below. Based upon the Settlement Agreement, the Court is of the opinion that
18 this request should be GRANTED. Accordingly, it is ORDERED, DECREED, and ADJUDGED
19 that:
20

21 1. The USACM Trust shall recover from Defendants Anthony Monaco, Susan K.
22 Monaco, and Monaco Diversified Corporation; jointly and severally the total sum of
23 \$5,500,000.00.

24 2. The USACM Trust shall recover from Defendants Anthony Monaco, Susan K.
25 Monaco, and Monaco Diversified Corporation; jointly and severally post-judgment interest at the
26 maximum rate allowed by law.

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P.3

1 3. This is a final judgment that disposes of all remaining claims and causes of action
2 in this adversary proceeding. The remaining cause of action is for unjust enrichment.
3 Accordingly, the Court directs entry of judgment as to the parties and claims covered hereby.

4 4. This Court shall retain jurisdiction of this case for any post-judgment discovery of
5 enforcement proceedings in accordance with applicable law.
6

7
8 DATED this 19 day of May, 2010.

9 **STIPULATED AND AGREED:**

10
11 **HAROLD P. GEWERTER ESQ. LTD.**

12 By: Harold P. Gewerter
13 Harold P. Gewerter
14 HAROLD P. GEWERTER ESQ. LTD.
2705 Airport Drive
North Las Vegas, Nevada 89032

15 *Counsel for Anthony Monaco, Susan K. Monaco, and Monaco Diversified Corporation.*
16

17 DATED: _____ ANTHONY MONACO

18
19 By: _____

20 Anthony Monaco

21
22
23 DATED: 5-18-10 SUSAN K. MONACO

24 By: Susan K. Monaco

25 Susan K. Monaco
26

1 3. This is a final judgment that disposes of all remaining claims and causes of action
2 in this adversary proceeding. The remaining cause of action is for unjust enrichment.
3 Accordingly, the Court directs entry of judgment as to the parties and claims covered hereby.

4 4. This Court shall retain jurisdiction of this case for any post-judgment discovery of
5 enforcement proceedings in accordance with applicable law.
6

7
8 DATED this _____ day of _____, 2010.

9 **STIPULATED AND AGREED:**

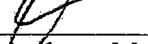
10
11 **HAROLD P. GEWERTER ESQ. LTD.**

12 By: _____
13 Harold P. Gewerter
14 HAROLD P. GEWERTER ESQ. LTD.
15 2705 Airport Drive
16 North Las Vegas, Nevada 89032

17 *Counsel for Anthony Monaco, Susan K. Monaco, and Monaco Diversified Corporation.*

18 DATED: 5-14-2010

ANTHONY MONACO

19 By: 
Anthony Monaco


20 DATED: _____

SUSAN K. MONACO

21 By: _____
22 Susan K. Monaco

23 DATED: 5-14-2010

MONACO DIVERSIFIED CORPORATION

24 By: 
25
26

DIAMOND MCCARTHY LLP

By: /s/ Allan B. Diamond
Allan B. Diamond, TX 05801800 (pro hac vice)
Michael J. Yoder, TX 24056572 (pro hac vice)
909 Fannin, Suite 1500
Houston, Texas 77010
(713) 333-5100 (telephone)
(713) 333-5199 (facsimile)

Special Counsel for USACM Liquidating Trust

LEWIS AND ROCA LLP

By: /s/ Rob Charles
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

Counsel for USACM Liquidating Trust